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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,600	11/14/2000	Victor T. Chen	044407:0684	3680

7590                    07/19/2002  
SCHWEGMAN LUNDBERG, WOESSNER & KLUTH, P.A.  
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MINNEAPOLIS, MN 55402

EXAMINER
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OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 07/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/712,600	CHEN ET AL. <i>CR</i>
	Examiner	Art Unit
	Frances P. Oropeza	3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 14 November 2000.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-61 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 14 November 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                           | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)       | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 42 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 42, line 2, it appears "lease" should be --least--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Gillberg et al. (US 5755736). Gillberg et al. disclose an implantable anti-tachyarrhythmia device that delivers therapies in response to detected tachyarrhythmias. A prioritized set of inter-related rules and clauses (criteria) detect arrhythmias using multi-dimensional threshold comparisons relative to a plurality of statistical measurements (c 2, ll 14-39). Also event classification occurs based on analysis of a sequence of two depolarizations (c 2, ll 48-53 and c 17, ll 15-27), read as a morphology based system. Atrial (15) and ventricular (16) leads are provided. The pacer/timing control circuitry is used to employ any pacing therapy known in the art (c 6, ll 36-39), read to include ventricular pacing, ventricular rate regulation, ventricular rate smoothing and dual

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chamber brachycardia pacing. Tachyarrhythmias detection algorithms known in prior art may be included in this invention (c 7, ll 18-28), read to include a morphology analysis system (c 1, ll 46-52), a system to analyze the order and timing of atrial and ventricular events (c 1, ll 52-58) and an interval variability system (c 15, ll 27-57). Trending of a plurality of values can be used to control the therapy (c 14, ll 24-41). The application of an atrial discrimination algorithm can be programmed by the physician to occur only after a maximum tracking rate has been established (c 1, l 59 – c 2, l 6; c 14, l 17-21; steps 11 and 12; c 23, ll 11-19). Pacing is controlled by the microprocessor (c 7, ll 29-67). Based on the effect of the pacing, the discrimination criteria can be altered (c 26, l 40 – c 27, l 58). Therapies are programmed into the device and more aggressive therapy can be scheduled based on the response to therapy or on the rate of tachycardia (c 8, l 51 – c 9, l 18). Three levels of tachycardia can be distinguished as fast tachycardia, fibrillation or slow tachycardia (c 14, ll 42-44).

***Other Prior Art Cited***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5725561 to Stroebel et al. teaches rate smoothing pacing. US 4869252 to Gilli teaches brachycardia pacing.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fran Oropeza whose telephone number is (703) 605-4355. The examiner can normally be reached on Monday – Thursday from 6 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (703) 308-5181. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 306-4520 for regular communication and (703) 306-4520 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

Frances P. Oropeza  
Patent Examiner  
Art Unit 3762

fl0  
7/11/02

JEFFREY R. JASTRZAB  
PRIMARY EXAMINER

3762  
7/15/02